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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-924

Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On February 27, 2015 the United States Court of International Trade ("CIT") sustained the Department of Commerce's ("the Department") final results of remand redetermination, pursuant to the CIT's remand order, in DuPont Teijin Films China Limited, et al. v. United States, Slip Op. 15-19 (CIT February 27, 2015).<sup>1</sup>

Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in Timken Co. v. United States, 893 F.2d 337 (Fed. Cir. 1990) ("Timken"), as clarified by Diamond Sawblades Mfrs. Coalition v. United States, 626 F.3d 1374 (Fed. Cir. 2010) ("Diamond Sawblades"), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's PET Film Final Results<sup>2</sup> and is amending the final results with respect to DuPont Teijin Film China Limited Co., Ltd. ("DuPont") and Tianjin Wanhua Co., Ltd. ("Wanhua") for the period of review from November 1, 2010, through October 31, 2011.

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<sup>1</sup> See Final Results of Redetermination Pursuant to Court Remand, Court No. 13-00229, dated January 9, 2015, available at: <http://enforcement.trade.gov/remands/index.html> ("PET Film Final Remand"); see also DuPont Teijin Films China Limited, et al. v. United States, Consol. Court No. 13-00229, Slip Op. 15-19 (CIT 2015) ("Remand Opinion and Order").

<sup>2</sup> See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 35245 (June 12, 2013) ("PET Film Final Results").

EFFECTIVE DATE: (March 9, 2015)

FOR FURTHER INFORMATION CONTACT: Thomas Martin, Office IV, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-3936.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 2013, the Department published the PET Film Final Results. Interested parties DuPont, DuPont Hongji Films Foshan Co., Ltd., DuPont Teijin Hongji Films Ningbo Co., Ltd., DuPont Teijin Films U.S. Limited Partnership, and Wanhua, appealed the PET Film Final Results to the CIT. On September 11, 2014, the CIT remanded several issues with respect to the PET Film Final Results.<sup>3</sup> Specifically, the CIT held that: 1) the Department's approach of valuing DuPont's recycled Polyethylene Terephthalate ("PET") chips factor of production, while denying its by-product offset for recyclable PET waste, was unreasonable because it resulted in double-counting, and the Department must "reconsider its approach, and adopt a methodology that does not result in double-counting costs, insofar as reasonably avoidable;" and 2) the Department's brokerage and handling calculation for DuPont "incorrectly assumes that a shipment weighing less will incur lower document preparation and customs clearance costs, while a shipment weighing more will incur higher preparation costs," and that the brokerage and handling figure therefore required "recalculation."<sup>4</sup> The CIT also held that because Wanhua's separate rate was based on DuPont's rate, "any change to DuPont's margin following remand shall be applied to Wanhua's rate as well."<sup>5</sup>

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<sup>3</sup> See DuPont Teijin Films China Ltd. v. United States, 7 F. Supp. 3d 1338 (CIT 2014).

<sup>4</sup> Id. at 1347-51.

<sup>5</sup> Id. at 1359.

Pursuant to the CIT's remand instructions, the Department re-examined record evidence and made the following changes. The Department revised its calculation of DuPont's margin in two ways. First, the Department reopened the record to allow DuPont an opportunity to substantiate its by-product offset, and granted that offset. Second, the Department adjusted DuPont's brokerage and handling surrogate value calculation by dividing the surrogate value for document preparation and customs clearance costs by the weight of DuPont's shipments. In addition, the Department revised its calculation of Wanhua's separate rate by adjusting it for any changes to DuPont's margin, given that its margin was solely based on DuPont's margin.

#### Timken Notice

In its decision in Timken, 893 F.2d at 341, as clarified by Diamond Sawblades, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ( "Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's February 27, 2015, judgment sustaining the PET Film Final Remand constitutes a final decision of that court that is not in harmony with the PET Film Final Results. This notice is published in fulfillment of the publication requirements of Timken. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. Since the PET Film Final Results, the Department established a new cash deposit rate for DuPont and Wanhua.<sup>6</sup> Therefore, DuPont's and Wanhua's cash deposit rates do not need to be updated as a result of these amended final results. The cash deposit rates for DuPont and Wanhua will

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<sup>6</sup> See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 37715 (July 2, 2014).

remain the rates established for the subsequent and most recent period during which each respondent was reviewed.

Amended Final Results

Because there is now a final court decision with respect to the PET Film Final Results, the revised weighted-average dumping margins are as follows:

Exporter	Weighted-Average Margin (Percent)
DuPont Teijin Films China Limited	4.42
Tianjin Wanhua Co., Ltd.	4.42

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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